

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

_____)	
In re:)	
)	PROMESA
THE FINANCIAL OVERSIGHT AND)	Title III
MANAGEMENT BOARD FOR PUERTO RICO)	
)	Case No. 17-BK-03283 (LTS)
as representative of)	
)	
THE COMMONWEALTH OF PUERTO RICO, <i>et al.</i> ,)	
)	
Debtors. ¹)	
_____)	
In re:)	PROMESA
)	Title III
THE FINANCIAL OVERSIGHT AND)	
MANAGEMENT BOARD FOR PUERTO RICO,)	Case No. 17-BK-03566 (LTS)
)	
as representative of)	
)	
THE EMPLOYEES RETIREMENT SYSTEM OF THE)	
GOVERNMENT OF THE COMMONWEALTH OF)	
PUERTO RICO,)	
)	
Debtor.)	
_____)	
THE SPECIAL CLAIMS COMMITTEE OF THE)	
FINANCIAL OVERSIGHT AND MANAGEMENT)	Adv. Proc. No. 19-00356 (LTS)
)	

¹ The Debtors in these Title III cases, along with each Debtor's respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK- 3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481), (ii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686), (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808), (iv) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK- 4780) (Last Four Digits of Federal Tax ID: 3747).

BOARD FOR PUERTO RICO, ACTING BY AND
THROUGH ITS MEMBERS,

and

THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF ALL TITLE III DEBTORS
(OTHER THAN COFINA),

as co-trustees of

THE EMPLOYEES RETIREMENT SYSTEM OF THE
GOVERNMENT OF PUERTO RICO,

Plaintiff,

v.

DEFENDANT 1M, *et al.*,

Defendants.

THE SPECIAL CLAIMS COMMITTEE OF THE
FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO, ACTING BY AND
THROUGH ITS MEMBERS,

and

THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF ALL TITLE III DEBTORS
(OTHER THAN COFINA),

as co-trustees of

THE EMPLOYEES RETIREMENT SYSTEM OF THE
GOVERNMENT OF PUERTO RICO,

Plaintiff,

v.

STOEVEER GLASS & CO., *et al.*,

Adv. Proc. No. 19-00357 (LTS)

Defendant.

THE SPECIAL CLAIMS COMMITTEE OF THE
FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO, ACTING BY AND
THROUGH ITS MEMBERS,

and

THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF ALL TITLE III DEBTORS
(OTHER THAN COFINA),

as co-trustees of

THE EMPLOYEES RETIREMENT SYSTEM OF THE
GOVERNMENT OF PUERTO RICO,

Plaintiff,

v.

DEFENDANT 1H-78H,

Defendants.

THE SPECIAL CLAIMS COMMITTEE OF THE
FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO, ACTING BY AND
THROUGH ITS MEMBERS,

and

THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF ALL TITLE III DEBTORS
(OTHER THAN COFINA),

as co-trustees of

Adv. Proc. No. 19-00359 (LTS)

Adv. Proc. No. 19-00361 (LTS)

THE EMPLOYEES RETIREMENT SYSTEM OF THE)
 GOVERNMENT OF PUERTO RICO,)
)
 Plaintiff,)
)
 v.)
)
 DEFENDANT 1G-50G,)
)
 Defendants.)
)
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**ERS BONDHOLDERS’ CONSENTED-TO URGENT MOTION
 FOR SUBSTITUTE SERVICE OF DEPOSITION SUBPOENA
ON JUAN CANCEL ALEGRÍA**

To the Chambers of the Honorable Judith G. Dein, U.S. Magistrate Judge:²

Certain secured creditors of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”), Altair Global Credit Opportunities Fund (A), LLC, Andalusian Global Designated Activity Company, Crown Managed Accounts for and on behalf of Crown/PW SP, Glendon Opportunities Fund, L.P., LMA SPC for and on behalf of Map 98 Segregated Portfolio, Mason Capital Master Fund LP, Oaktree-Forrest Multi-Strategy, LLC (Series B), Oaktree Opportunities Fund IX, L.P., Oaktree Opportunities Fund IX (Parallel), L.P., Oaktree Opportunities Fund IX (Parallel 2), L.P., Oaktree Huntington Investment Fund II, L.P., Oaktree Opportunities Fund X, L.P., Oaktree Opportunities Fund X (Parallel), L.P., Oaktree Opportunities Fund X (Parallel 2), L.P., Oaktree Value Opportunities Fund Holdings, L.P., Oceana Master Fund Ltd., Ocher Rose, L.L.C., Pentwater Merger Arbitrage Master Fund Ltd., PWCM Master Fund Ltd., Redwood Master Fund, Ltd, SV Credit, L.P.,³ (the “Bondholders”)

² These matters were ordered referred to Judge Dein for “general pretrial management.” See ECF No. 77 in Case No. 17-bk-03566.

³ Oaktree Opportunities Fund IX, L.P., Oaktree Opportunities Fund IX (Parallel), L.P., and Oaktree Opportunities Fund IX (Parallel 2), L.P. hold through Opps Culebra Holdings, L.P. Oaktree Huntington Investment Fund II, L.P. holds through Oaktree Opportunities Fund X Holdings (Delaware), L.P. Oaktree Opportunities Fund X, L.P., Oaktree Opportunities Fund X (Parallel), L.P., and Oaktree Opportunities Fund X (Parallel 2), L.P. hold

hereby respectfully request that the Court enter an order substantially in the form of the proposed order attached as **Exhibit A** authorizing substitute service of the Bondholders' deposition subpoena on Juan Cancel Alegría, a former ERS Administrator, by email and Federal Express.

Mr. Cancel Alegría was the ERS Administrator in 2008, when the ERS Bonds that are the subject of these proceedings were issued, and is therefore a key source of information relevant to these proceedings. On January 27, 2020, the Bondholders executed a subpoena for an in-person deposition of Mr. Cancel Alegría to take place on February 24, 2020 at 9:30 AM AST in San Juan, Puerto Rico.

Based on public records, the Bondholders were able to locate Mr. Cancel Alegría's current address in Puerto Rico and hired a process server named Michael Rodriguez Gomez to serve the subpoena on Mr. Cancel Alegría at his Puerto Rico residence. Mr. Rodriguez Gomez has attempted to execute service on multiple occasions since January 28, 2020, but each time was refused entry to the gated community in which Mr. Cancel Alegría lives. A full account of Mr. Rodriguez Gomez's efforts to serve Mr. Cancel Alegría can be found in his affidavit attached at **Exhibit B**. (The Bondholders have redacted Mr. Cancel Alegría's home address from the attached affidavit to protect his privacy, but would be prepared to provide it, and the email addresses linked to Mr. Cancel Alegría, to the Court upon request.)

District Courts across the country "have granted requests for alternative methods of service of subpoenas" other than in-hand service where diligent attempts at personal service have failed. *SEC v. Pence*, 322 F.R.D. 450, 453–54 (S.D.N.Y. 2017) (citing cases). "These courts typically require the serving party to seek leave to serve by alternative means and to demonstrate a prior diligent attempt to personally serve." *Kenyon v. Simon & Schuster, Inc.*, No. 16 Misc.

through Oaktree Opps X Holdco Ltd.

327, 2016 WL 5930265, at *3 (S.D.N.Y. Oct. 11, 2016); *see also, e.g., Hall v. Sullivan*, 229 F.R.D. 501, 503 (D. Md. 2005) (“better reasoned cases recently have . . . held that personal service is not required [for subpoenas]”); *Doe v. Hersemann*, 155 F.R.D. 630 (N.D. Ind. 1994) (service of a subpoena via certified mail is sufficient under Rule 45, particularly when Defendant does not deny actual receipt); *Western Resources v. Union Pacific R.R.*, 2002 WL 1822432 (D. Kan. 2002) (holding that delivery of subpoena via Federal Express was sufficient).

Here, the Bondholders have repeatedly attempted to serve Mr. Cancel Alegría in-person at what the guards at his gated community have confirmed to be his current address. Ex. B. ¶ 5. Yet their process server has been repeatedly refused admission, and as a result, their efforts have been unsuccessful. Due to the expedited schedule associated with discovery in these cases, and to aid in the “just, speedy, and inexpensive determination of [the] action,” Fed. R. Civ. P. 1, the Bondholders request that the Court enter an order authorizing service on Mr. Cancel Alegría via Federal Express to his confirmed address, with copies sent by email to two email addresses linked to Mr. Cancel Alegría in public records databases. (Given the passage of time, the Bondholders will revise the return date on the subpoena to a later date.)

Certification Under Case Management Procedures I.H.

The Bondholders certify that they engaged in reasonable, good-faith communications in an effort to resolve or narrow the issues raised herein, and that all other parties to these proceedings have consented to the relief requested herein.

Relief Requested

The Bondholders respectfully request that the Court grant this Motion and allow service of a deposition subpoena on Mr. Cancel Alegría by Federal Express to his confirmed address,

with copies by email to two email addressed linked to Mr. Cancel Alegría in public records databases.

[Signatures on Next Page]

In San Juan, Puerto Rico, today February 18, 2020.

/s/Alfredo Fernández-Martínez

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